Linda S. Adams
Acting Secretary for Environmental Protection

California Regional Water Quality Control Board

San Diego Region

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Arnold Schwarzenegger
Governor

SUPPORTING DOCUMENT # 1

Action on Request
for
Clean Water Act Section 401 Water Quality Certification
and
Waste Discharge Requirements
for
Discharge of Dredged and/or Fill Materials

PROJECT: Gregory Canyon Bridge
Water Quality Certification No. R9-2009C-073
County of San Diego

APPLICANT: Gregory Canyon, Ltd. LLC
Attention: Jerry Riessen
1551-G Tiburon Blvd
Suite 614
Tiburon, CA 94920

WDID	9 000001968
Reg. Measure	371599
Place	227954
Party	18607
Party	19483
Person	68247

ACTION:

☐ Order for Low Impact Certification	☐ Order for Denial of Certification
☑ Order for Technically-conditioned Certification	☐ Waiver of Waste Discharge Requirements
☑ Enrollment in SWRCB GWDR Order No. 2003-017 DWQ	☐ Enrollment in Isolated Waters Order No. 2004-004 DWQ

FINDINGS:

1. Gregory Canyon, Ltd. LLC has submitted an application to the Regional Water Quality Control Board, San Diego Region (Regional Board) for water quality certification pursuant to Section 401 of the Clean Water Act. The proposed project is the construction of a bridge over the San Luis Rey River (HSA 903.21), in unincorporated County of San Diego. The bridge will be supported by five piers and two abutments. The middle three piers, consisting of 2 pilings each, will be constructed in waters of the U.S. and State. The bridge will be approximately 675-feet long and 34-feet wide

and will clear the riverbed by approximately 17-feet. During bridge construction an existing low-flow crossing will be used for access. After bridge construction is complete the low-flow crossing will be removed.

2. Water Quality Certification R9-2009C-073 is for a bridge to connect State Route 76 with the area (Gregory Canyon) that may become a landfill. Water Quality Certification R9-2009C-073 is not for the proposed landfill. Separate Waste Discharge Requirements have been drafted for the proposed landfill and will be brought before the Regional Board during a public Board meeting. If the U.S. Army Corps of Engineers (ACOE) determines that there are additional impacts to Waters of the U.S. different from, or in addition to, those certified for this proposed project, Gregory Canyon, Ltd. LLC must apply for a new or revised 401 Water Quality Certification.

3. California Environmental Quality Act (CEQA). The County of San Diego, the lead agency under CEQA, issued the Gregory Canyon Landfill Revised Final Environmental Impact Report (RFEIR) in 2007. The EIR was subject to litigation and in 2007, the San Diego Superior Court ruled that the County had complied with CEQA.[1] The Revised Final Environmental Impact Report and related documents can be found on the County's website at http://www.sdcounty.ca.gov/deh/waste/chd_gc_eir.html.

   As a Responsible Agency under CEQA, the CEQA Guidelines require the Regional Board to consider the EIR and make its own conclusions about whether to approve the project and to consider the environmental impacts of the proposed project as shown in the EIR. A responsible agency may impose mitigation measures, but may only require mitigation for the environmental impacts of the parts of the project which it approves. See section 15096 of Title 14 of the California Code of Regulations (CCR). The Regional Board has considered the RFEIR and has included conditions in this water quality certification to protect water quality and that impose mitigation for temporary and permanent impacts on wetlands at the site.

   As a responsible agency, the Regional Board may not approve the project for which an EIR has been certified that identifies one or more significant environmental effects of the project unless the Regional Board makes written findings for each of those significant effects. With respect to the bridge project the EIR concluded that "any potentially significant surface water impacts have been reduced to a level of insignificance through project design features and BMPs. Therefore, no mitigation measures are proposed for this project." See RFEIR at page 4.4-16. The Regional

[1] See Riverwatch v. County of San Diego Department of Environmental Health, San Diego County Sup. Ct (GIN038227).

Board is, therefore, not required to make findings under 14 CCR section 15091 with respect to impacts to surface water quality associated with the bridge project. The Regional Water Board, however, has included conditions to implement water quality standards and to protect waters of the State and United States.

The RFEIR identifies environmental impacts to biological resources associated, in part, with the bridge construction due to impacts to jurisdictional waters of the United States that require a permit under section 404 of the Clean Water Act from the Army Corps of Engineers. The RFEIR identifies mitigation to avoid or lessen the environmental effects of the bridge project. The Regional Board, therefore, is required to make findings pursuant to Title 14 CCR section 15091. This water quality certification imposes conditions to protect water quality and imposes mitigation for impacts to the jurisdictional waters. These conditions and mitigation measures will substantially lessen any significant effects the project might have on the environment. This water quality certification also imposes monitoring and reporting to assure that the conditions and mitigation measures are implemented. The conditions and mitigation measures contained in this water quality certification are enforceable pursuant to the California Water Code Division 7 and the Clean Water Act. The documents used to support this water quality certification are stored at the Regional Board office.

4. Since an EIR was prepared, the Regional Board, as a responsible agency, must consider whether there are feasible alternatives or feasible mitigation measures within its powers to impose. In evaluating proposed project, the Regional Water Board has considered the proposed location of the bridge and possible alternative sites for the bridge in that area, and finds that the proposed location sufficiently minimizes impacts to waters of the State and the United States. The Regional Board has imposed conditions and mitigation measures to comply with water quality standards and protect the waters of the state and of the United States.

5. As a responsible agency, the Regional Board is required to presume that the CEQA document is valid for its purposes unless the CEQA document is finally adjudged in a legal proceeding not to comply with CEQA or a subsequent EIR is made necessary by Section 15162 of the CEQA guidelines. See Title 14 CCR Section 15231. In this case, the court concluded that the revised EIR complied with CEQA, and, therefore, the Regional Board must presume that the EIR is valid.

6. Comment letters. As of November 2, 2009, the Regional Board received 1694 comment letters, of which approximately 1683 were the same electronic form letter, but from different individuals. All of the comments received were against the proposed bridge and landfill, or just the

proposed landfill. The Regional Board has compiled all substantial comments received as of November 2, 2009 into 19 general comments and has provided responses in Appendix 7 of this certification.

STANDARD CONDITIONS:

The following three standard conditions apply to all certification actions, except as noted under Condition 3 for denials (Action 3).

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).

2. This certification action is not intended and must not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

3. The validity of any non-denial certification action (Actions 1 and 2) must be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

ADDITIONAL CONDITIONS:

In addition to the three standard conditions, Gregory Canyon, Ltd. LLC must satisfy the following:

A. GENERAL CONDITIONS:

1. Gregory Canyon, Ltd. LLC must, at all times, fully comply with the engineering plans, specifications and technical reports submitted to the California Regional Water Quality Control Board, San Diego Region (Regional Board), to support this 401 Water Quality Certification and all subsequent submittals required as part of this certification and as described in Attachment 1. The conditions within this certification must supersede conflicting provisions within such plans submitted prior to the certification action. Any modifications thereto, would require notification to the Regional Board and reevaluation for individual Waste Discharge Requirements and/or certification amendment.

2. Notwithstanding any more specific conditions in this certification, the project shall be constructed and operated in a manner consistent with all applicable water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne water Quality Control Act or Section 303 of the Clean Water Act.

3. The Regional Board may add to or modify the conditions of this certification as appropriate to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act or to address any changes to the jurisdictional determination by the Army Corps of Engineers.

4. Any change to the project that would have a significant or material effect on the findings or conclusions of this certification must be submitted to the Regional Board for prior review and written approval.

5. If project impacts have not been initiated within 5 years of issuance of this Certification, this Certification shall expire and another application for water quality certification will have to be submitted.

6. The terms of this Certification are in effect unless and until the Regional Water Board issues a new Certification in conjunction with the issuance of new federal permits and/or the modification of existing federal permits.

7. During construction activities, Gregory Canyon, Ltd. LLC must maintain a copy of this certification at the project site so as to be available at all times to site personnel and agencies.

8. Gregory Canyon, Ltd. LLC must permit the Regional Board or its authorized representative at all times, upon presentation of credentials:

    a. Entry onto project premises, including all areas on which wetland fill or wetland mitigation is located or in which records are kept.

    b. Access to copy any records required to be kept under the terms and conditions of this certification.

    c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this certification.

    d. Sampling of any discharge or surface water covered by this Order.

9. Gregory Canyon, Ltd. LLC must notify the Regional Board within **24 hours** of any unauthorized discharge, including hazardous or toxic materials, to waters of the U.S. and/or State; measures that were implemented to stop and

contain the discharge; measures implemented to clean-up the discharge; the volume and type of materials discharged and recovered; and additional best management practice (BMPs) or other measures that will be implemented to prevent future discharges.

10. Gregory Canyon, Ltd. LLC must, at all times, maintain appropriate types and sufficient quantities of materials onsite to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the U.S. and/or State.

11. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation may be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.

12. Violations of the terms of this Certification are enforceable pursuant to California Water Code section 13385, which authorizes the Regional Water Board to impose administrative civil liability, and California Water Code section 13386, which authorizes the Regional Water Board to seek injunctive relief through the Attorney General's Office.

13. The Regional Board may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Board deems appropriate, provided that the burden, including costs, of the reports must bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

14. In response to any violation of the conditions of this certification, the Regional Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

15. Gregory Canyon, Ltd. LLC must submit annual progress reports to the Regional Board, prior to **August 1** of each year following the issuance of this certification, that reports on the status of compliance with all aspects of this certification until the project and mitigation are completed.

16. Gregory Canyon, Ltd. LLC must comply with the requirements of State Water Resources Control Board Water Quality Order No. 97-03-DWQ, or revisions thereto, NPDES No. CAS000001 Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities excluding Construction Activities.

17. This Certification is not transferable in its entirety or in part to any person except after notice to the Executive Officer of the Regional Board in accordance with the following terms:

    a) Transfer of Property Ownership: Gregory Canyon, Ltd. LLC must notify the Regional Board of any change in ownership of the project area Notification of change in ownership must include, but not be limited to, a statement that Gregory Canyon, Ltd. LLC has provided the purchaser with a copy of the Section 401 Water Quality Certification and that the purchaser understands and accepts the certification requirements and the obligation to implement them or be subject to liability for failure to do so; the seller and purchaser must sign and date the notification and provide such notification to the Executive officer of the Regional Board within **10 days** of the transfer of ownership.

    b) Transfer of Responsibility: Any notification of transfer of responsibilities to satisfy the post-construction BMP requirements set forth in Section D, or the mitigation requirements set forth in section E, shall include a signed statement from an authorized representative of the new party (transferee) demonstrating acceptance and understanding of the responsibility to comply with and fully satisfy the applicable conditions and agreement that failure to comply with such conditions and associated requirements may subject the transferee to enforcement by the Regional Board under Water Code section 13385, subdivision (a). Notification of transfer of responsibilities meeting the above conditions must be provided to the Regional Board within **10 days** of the transfer date.

18. This certification does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & Game Code section 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. section 1531 to 1544). If a "take" will result from any act authorized under this certification, the applicant shall obtain authorization for the take prior to construction or operation of the project. The applicant shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized by this certification.

B. PROJECT CONDITIONS:

1. Prior to the start of the project, and annually thereafter, Gregory Canyon, Ltd. LLC must educate all personnel on the requirements in this certification, pollution prevention measures, spill response, and Best Management Practices implementation and maintenance.

2. Gregory Canyon, Ltd. LLC must comply with the requirements of State Water Resources Control Board Water Quality Order No. 2003-0017-DWQ, Statewide General Waste Discharge Requirements for discharges of dredged or fill material that have received State Water Quality Certification. These General Waste Discharge Requirement are accessible at: http://www.waterboards.ca.gov/cwa401/docs/generalorders/go_wdr401regulated_projects.pdf.

3. Gregory Canyon, Ltd. LLC must notify the Regional Board in writing at least **5 days** prior to the actual commencement of project construction.

4. Water containing mud, silt, or other pollutants from equipment washing or other activities, must not be discharged to waters of the United States and/or the State or placed in locations that may be subjected to storm flows. Pollutants discharged to areas within a stream diversion area must be removed at the end of each work day or sooner if rain is predicted.

C. CONSTRUCTION BEST MANAGEMENT PRACTICES CONDITIONS:

1. Construction BMPs must be implemented as described in the Storm Water Pollution Prevention Plan for Gregory Canyon Landfill (SWPPP), prepared by URS and dated March 10, 2008, and a letter written by URS dated October 8, 2009.

2. Construction BMPs must include, but are not limited to:

   a) Silt fencing (sediment control).
   b) Straw wattles (erosion control).
   c) Hydro-mulching (erosion control).
   d) Straw blankets (erosion control).
   e) Gravel bags (sediment control).
   f) Staging areas and materials storage outside of jurisdictional waters.
   g) Staging areas and material storage will be protected by erosion and sediment control BMPs.
   h) Equipment and vehicles serviced and stored out of riverbed.
   i) Avoidance of construction activities during the rainy and monsoon seasons.
   j) Drilling spoils stockpiled out of riverbed in upland areas.
   k) Stockpiles covered and surround with sediment control BMPs.
   l) Waste and materials handling.
   m) Revegetation of areas disturbed during bridge construction activities.
   n) Clearwater diversion around pier construction areas.
   o) Concrete waste washout areas.

D. POST-CONSTRUCTION BEST MANAGEMENT PRACTICES CONDITIONS:

1. All storm drain inlet structures within the project boundaries must be stamped and/or stenciled (or equivalent) with appropriate language prohibiting non-storm water discharges.

2. Gregory Canyon, Ltd. LLC must acquire a performance bond to ensure implementation of structural BMPs as proposed in Storm Water Management Plan for Gregory Canyon Landfill, prepared by URS and dated September 22, 2008. Evidence of the acquisition of a performance bond must be submitted to the Regional Board **before construction commences**.

3. In addition to the BMPs described in the Storm Water Management Plan for Gregory Canyon Landfill, prepared by URS and dated September 22, 2008 and referenced in Appendix I in support of the application, the structural BMPs must be sized to comply with the following numeric sizing criteria:

   i. Volume

   Volume-based BMPs must be designed to mitigate (infiltrate, filter, or treat) either:

   1. The volume of runoff produced from a 24-hour 85th percentile storm event, as determined from the local historical rainfall record (0.6 inch approximate average for the San Diego County area); or
   2. The volume of runoff, as determined from the local historical rainfall record, that achieves approximately the same reduction in pollutant loads and flows as achieved by mitigation of the 85th percentile 24-hour runoff event; or

   ii. Flow

   Flow-based BMPs must be designed to mitigate (infiltrate, filter, or treat) either:

   1. The maximum flow rate of runoff produced from a rainfall intensity of 0.2 inch of rainfall per hour; or
   2. The maximum flow rate of runoff produced by the 85th percentile hourly rainfall intensity, as determined from the local historical rainfall record, multiplied by a factor of two; or
   3. The maximum flow rate of runoff, as determined from the same reduction in pollutant loads and flows as achieved by mitigation of the 85th percentile hourly rainfall intensity multiplied by a factor of two.

4. Post-construction BMPs must be installed and functional prior to occupancy and/or planned use of development areas.

5. Gregory Canyon, Ltd. LLC or their designated party must inspect and maintain structural BMP s per the manufacturers' and standard specifications.

6. **Prior to project construction**, Gregory Canyon, Ltd. LLC must submit to the Regional Board a letter accepting full responsibility for the inspection and maintenance of all post-construction BMPs.

7. A BMPs records log must be kept onsite documenting inspections and maintenance of the BMPs. Failure to keep and maintain a log will be a violation of the Certification.

8. At the time maintenance responsibility for post-construction BMPs is legally transferred, Gregory Canyon, Ltd. LLC must provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturers' specifications.

9. Post-construction BMPs for the bridge must be implemented as described in the Storm Water Management Plan for Gregory Canyon Landfill, prepared by URS and dated September 22, 2008.

10. Post-construction BMPs for bridge runoff must include, but not be limited to:

    a) Two media filtration cartridges (6-feet by 12-feet Curb Inlet StormFilter or equivalent).
    b) Two structural pre-infiltration filter devices (Kristar SwaleGard Pre-Filter or equivalent).
    c) Two energy dissipation devices.
    d) Infiltration.

E. I MPACTS AND MITIGATION CONDITIONS

1. Permanent impacts must not exceed 0.002-acre (30-linear feet) of unvegetated waters (riverbed) of the U.S. and State. Temporary impacts must not exceed 0.490-acre (340-linear feet) of unvegetated waters (riverbed) of the U.S. and State.

2. Mitigation must be implemented as described in the Habitat Restoration and Resource Management Plan for Gregory Canyon Landfill Property, prepared by URS, and dated October 7, 2008.

3. Mitigation must be the establishment of 2.3-acres (950 linear-feet) and restoration of 0.490-acre (340-linear feet) of riparia, as southern willow scrub. Mitigation must be implemented on the northern bank of the San Luis Rey River, south of State Route 76, and adjacent to the proposed bridge.

4. Within **90 days** of the issuance of this Certification, Gregory Canyon, Ltd. LLC must provide the Regional Board a draft preservation mechanism (e.g. deed restriction, conservation easement, etc.) that will protect all mitigation areas and their buffers in perpetuity. Within **one year** of the issuance of this Certification, Gregory Canyon, Ltd. LLC must submit proof of a completed preservation mechanism that will protect all mitigation areas and their buffers in perpetuity. Construction of the site must not be initiated until a completed preservation mechanism is received. The conservation easement, deed restriction, or other legal limitation on the mitigation property must be adequate to demonstrate that the site will be maintained without future development or encroachment on the site which could otherwise reduce the functions and values of the site for the variety of beneficial uses of waters of the U.S. that it supports. The legal limitation must prohibit, without exception, all residential, commercial, industrial, institutional, and transportation development, and any other infrastructure development that would not maintain or enhance the wetland and streambed functions and values of the site. The preservation mechanism must clearly prohibit activities that would result in soil disturbance or vegetation removal, other than the removal of non-native vegetation. Other infrastructure development to be prohibited includes, but is not limited to, additional utility lines, maintenance roads, and areas of maintained landscaping for recreation.

5. Throughout the mitigation monitoring program mitigation areas must be maintained free of perennial exotic plant species including, but not limited to, pampas grass, giant reed, tamarisk, sweet fennel, tree tobacco, castor bean, and pepper tree. Annual exotic plant species must not occupy more than 5 percent of the onsite or offsite mitigation areas.

6. Any maintenance activities that do not contribute to the success of the mitigation site and enhancement of beneficial uses and ecological functions and services are prohibited. Maintenance activities are limited to the removal of trash and debris, removal of exotic plant species, replacement of dead native plant species and remedial measures deemed necessary for the success of the restoration program.

7. If at any time during the implementation and establishment of the mitigation area(s), and prior to verification of meeting success criteria, a catastrophic natural event (e.g., fire, flood) occurs and impacts the mitigation area, Gregory Canyon, Ltd. LLC is responsible for repair, replanting, monitoring, and maintenance of the damaged area(s).

8. Mitigation monitoring reports must be submitted annually until mitigation has been deemed successful by the Regional Board. Annual monitoring reports must be submitted prior to **August 1** of each year. Monitoring reports must include, but not be limited to, the following:

    a) Names, qualifications, and affiliations of the persons contributing to the report.

    b) Tables presenting the raw data collected in the field as well as analyses of the physical and biological data, including at a minimum.

    c) Topographic complexity characteristics at each mitigation site.

    d) Upstream and downstream habitat and hydrologic connectivity.

    e) Source of hydrology.

    f) Width of native vegetation buffer around the entire mitigation site.

    g) Qualitative and quantitative comparisons of current mitigation conditions with pre-construction conditions and previous mitigation monitoring results.

    h) Photodocumentation from established reference points.

    i) A Survey report documenting boundaries of mitigation area.

9. Regional Board acceptance of the final mitigation plan applies only to the site and plan that mitigates for the Gregory Canyon Bridge impacts to waters of the U.S. and State. No other impacts to waters of the U.S. and State from bridge construction, except as described in Condition E.1., or landfill construction will be covered by the proposed mitigation.

10. The construction of proposed mitigation shall be completed within the same calendar year as impacts occur, or at least no later than 9 months following the close of the calendar year in which impacts first occur (e.g., if impacts occur in June 2003, construction of mitigation for all impacts shall be completed no later than September 2004). Delays in implementing mitigation shall result in an increased mitigation ratio by 1.0 acre for each acre of impact for each year, or part thereof, of delay.

11. For purposes of this Certification, establishment is defined as the creation of vegetated or unvegetated waters of the U.S./State where the resource has never previously existed (e.g. conversion of nonnative grassland to a freshwater marsh). Restoration is divided into two activities, re-establishment and rehabilitation. Re-establishment is defined as the return of natural/historic functions to a site where vegetated or unvegetated waters of the U.S./State previously existed (e.g., removal of fill material to restore a drainage). Rehabilitation is defined as the improvement of the general suite of functions of degraded vegetated or unvegetated waters of the U.S./State (e.g., removal of a heavy infestation or monoculture of exotic plant species from jurisdictional areas and replacing with native species). Enhancement is defined as the improvement to one or two functions of existing vegetated or unvegetated waters of the U.S./State (e.g., removal of small patches of exotic plant species from an area containing predominantly natural plant species). Preservation is defined as the acquisition and legal protection from future impacts in perpetuity of existing vegetated or unvegetated waters of the U.S./State (e.g., conservation easement).

F. PRE-PROJECT AND POST-PROJECT PHOTO DOCUMENTATION PROCEDURE CONDITIONS:

Gregory Canyon, Ltd. LLC must conduct photo documentation of the project area before and after construction activities. Photo-documentation must be modeled after the State Water Resources Control Board Standard Operating Procedure 4.2.1.4: Stream Photo Documentation Procedure, included as Attachment 6. In addition, photo documentation must include Global Positioning System (GPS) coordinates for each of the photo points referenced. Gregory Canyon, Ltd. LLC must submit this information in a photo documentation report to the Regional Board no later than **30 days** after project completion. The report must include a compact disc that contains digital files of all the photos (jpeg file type or similar).

G. GEOGRAPHIC INFORMATION SYSTEM REPORTING CONDITIONS:

Gregory Canyon, Ltd. LLC must submit Geographic Information System (GIS) shape files of the project impact and mitigation areas within **30 days** of mitigation installation. All impact and mitigation area shapefiles must be polygons. Two GPS readings (points) must be taken on each line of the polygon and the polygon must have a minimum of 10 points. GIS metadata must also be submitted.

H. REPORTING CONDITIONS:

1. All information requested in this Certification is pursuant to California Water Code (CWC) section 13267. Civil liability may be administratively imposed by the Regional Board for failure to furnish requested information pursuant to CWC section 13268.

2. All reports and information submitted to the Regional Board must be submitted in both hardcopy and electronic format. The preferred electronic format for each report submission is one file in PDF format that is also Optical Character Recognition (OCR) capable.

3. All applications, reports, or information submitted to the Regional Board must be signed and certified as follows:

    a. For a corporation, by a responsible corporate officer of at least the level of vice president.

    b. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.

    c. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.

4. A duly authorized representative of a person designated in Items 3.a. through 3.c. above may sign documents if:

    a. The authorization is made in writing by a person described in Items 3.a. through 3.c. above.

    b. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.

    c. The written authorization is submitted to the Regional Board Executive Officer.

5. All applications, reports, or information submitted to the Regional Board must be signed and certified as follows:

    "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

6. Gregory Canyon, Ltd. LLC must submit reports required under this certification, or other information required by the Regional Board, to:

   Executive Officer
   California Regional Water Quality Control Board
   San Diego Region
   Attn: 401 Certification No. 09C-073
   9174 Sky Park Court, Suite 100
   San Diego, California 92123

7. Required Reports: The following list summarizes the reports, including spill notifications and emergency situations, required per the conditions of this Certification to be submitted to the Regional Board.

Reporting Topic	Certification Condition	Due Date(s)
Unauthorized Discharges	A.9. Report within 24 hours.	Within 24 hours.
Annual Progress Reporting	A.15. Submit annual progress reports.	Annually before August 1st.
Transfer of Property Ownership	A.17.a Notify Regional Board of transfer of ownership.	Within 10 days of transfer
Transfer of Responsibility	A.17.b Notify Regional Board of transfer of responsibility	Within 10 days of transfer
Impacts to Waters	B.3. Notify before impacting Waters of U.S. and State.	5 Days prior to impacts.
BMP Performance Bond	D.2 Submit evidence of bond.	Prior to construction.
BMP Maintenance Responsibility	D.6 Submit BMP maintenance responsibility letter.	Prior to construction.
Mitigation	E.4. Provide draft and final preservation mechanisms.	Within 90 days and one year of issuance of Certification.
Mitigation	E.8. Provide annual mitigation monitoring reports.	Prior to August 1 of each year after installation of mitigation site.
Photo Documentation	F. Provide photo documentation of project areas.	Within 30 days of project completion at each site.
GIS shapefiles	G. Submit GIS shapefiles of impacts and mitigation areas.	30 Days after impacts and 30 days after mitigation installation.

PUBLIC NOTIFICATION OF PROJECT APPLICATION:

On September 17, 2009 receipt of the project application was posted on the Regional Board web site to serve as appropriate notification to the public.

WATER QUALITY CERTIFICATION:

I hereby certify that the proposed discharge from Gregory Canyon, Ltd. LLC (Certification No. 09C-073) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have Received State Water Quality Certification (General WDRs)," which requires compliance with all conditions of this Water Quality Certification. Please note that enrollment under Order No. 2003-017 DWQ is conditional and, should new information come to our attention that indicates a water quality problem, the Regional Board may issue individual waste discharge requirements at that time.

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicants' project description and/or on the attached Project Information Sheet, and (b) on compliance with all applicable requirements of the Regional Water Quality Control Board's Water Quality Control Plan (Basin Plan).

_____ _____

JOHN H. ROBERTUS Date
Executive Officer
Regional Water Quality Control Board

Attachments:

1. Project Information
2. Distribution List
3. Location Map
4. Site Maps
5. Mitigation Map
6. Stream Photodocumentation Procedure
7. Comments and responses

ATTACHMENT 1
PROJECT INFORMATION

Applicant:	Jerry Riessen Gregory Canyon, Ltd. LLC 1551-G Tiburon Blvd Suite 614 Tiburon, CA 94920 Telephone: 415-391-2833 Facsimile: 415-788-2030 Email: j.riessen@comcast.net
Applicant Representatives:	Bill Magdych URS Corporation 1615 Murray Canyon Road Suite 1000 San Diego, CA 92108 Telephone: 619-294-9400 Facsimile: 619-293-7920 Email: Bill_Magdych@urscrap.com
Project Name:	Gregory Canyon Bridge, Certification R9-2009C-073
Project Location:	The project is located in and over the San Luis Rey River, adjacent to Gregory Mountain, south and adjacent to State Route 76, 9708 Pala Road, in unincorporated San Diego County. Assessor's Parcel number 110-150-25. Center of project is approximately located at latitude 33° 20.754' north, longitude -117° 6.906' east.
Type of Project:	Bridge construction.

Project Description:	The proposed project is the construction of one, two-lane bridge over the San Luis Rey River. The bridge will be supported by five piers and two abutments. The middle three piers will be constructed in waters of the U.S. and State. The bridge will be approximately 675-feet long and 34-feet wide and will clear the riverbed by approximately 17-feet. An existing low-flow crossing will be used for access during bridge construction. After bridge construction is complete the low-flow crossing will be removed.
Project Purpose:	The purpose of the bridge project is to provide access to the south side of the River to allow construction of and use of the proposed Gregory Canyon Landfill.
Federal Agency/Permit:	U.S. Army Corps of Engineers §404, Nationwide Permit No. 33, Mr. Robert Smith
Other Required Regulatory Approvals:	California Department of Fish and Game, §1602 Streambed Alteration Agreement, Ms. Marilyn Fluharty.
California Environmental Quality Act (CEQA) Compliance:	Gregory Canyon Landfill Revised Final Environmental Impact Report, 2007, County of San Diego, State Clearinghouse Number 1995061007. The Revised Final Environmental Impact Report and related documents can be found on the County's website at http://www.sdcounty.ca.gov/deh/waste/chd_gc_eir.html.
Impacted Receiving Water:	San Luis Rey River, San Luis Rey hydrologic unit, Monserate hydrologic area, Pala hydrologic subarea (903.21).
Impacted Waters of the United States and State:	Temporary impacts: Wetland — None Riverbed — 0.490-acre, 340-linear feet Lake — None Ocean — None Permanent impacts: Wetland — None Riverbed — 0.002-acre, 30-linear feet

	Lake	None
	Ocean	None

Dredge Volume: None

Related Projects Implemented/to be Implemented by the Applicant(s): Proposed Gregory Canyon Landfill

Compensatory Mitigation: Proposed mitigation is described within the Habitat Restoration and Resource Management Plan for Gregory Canyon Landfill Property, prepared by URS, and dated October 7, 2008.

The proposed mitigation area is on the northern bank of the San Luis Rey River and adjacent to the proposed bridge. Proposed mitigation is the establishment of 2.3-acres (950 linear-feet) and restoration of 0.490-acre (340-linear feet) of riparia, as southern willow scrub.

The mitigation plan can be viewed on the Regional Board's website at http://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/projects/gregory_canyon_bridge/Habitat%20Restoration%20Management%20Plan.pdf.

Best Management Practices (BMPs): Construction BMPs –

Proposed construction BMPs are described in the Storm Water Pollution Prevention Plan for Gregory Canyon Landfill (SWPPP), prepared by URS and dated March 10, 2008, and a letter written by URS, dated October 8, 2009. The SWPPP and letter can be viewed on the Regional Board's website at http://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/projects/gregory_canyon_bridge/Storm%20Water%20Pollution%20Prevention%20Plan%20For%20Gregory%20Canyon%20Landfill.pdf and http://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/projects/gregory_canyon_bridge/updates_10-15-

09/Gregory_Bridge_Pier_Drilling_BMPs_100809.pdf.

Proposed Construction BMPs include, but are not limited to:

1. Silt fencing (sediment control).
2. Straw wattles (erosion control).
3. Hydro-mulching (erosion control).
4. Straw blankets (erosion control).
5. Gravel bags (sediment control).
6. Staging areas and materials storage outside of jurisdictional waters.
7. Staging area and material storage will be protected by erosion and sediment control BMPs.
8. Equipment and vehicles serviced and stored out of riverbed.
9. Avoidance of construction activities during the rainy and monsoon seasons.
10. Drilling spoils stockpiled out of riverbed in upland areas.
11. Stockpiles covered and surround with sediment control BMPs.
12. Waste and materials handling.
13. Revegetation of areas disturbed during bridge construction activities.
14. Clearwater diversion around pier construction areas.
15. Concrete waste washout areas.

Post-Construction BMPs -

Proposed post-construction BMPs for the bridge are described in the Storm Water Management Plan for Gregory Canyon Landfill, prepared by URS and dated September 22, 2008. The Storm Water Management Plan can be viewed on the Regional Board's website at http://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/projects/gregory_canyon_bridge/Storm%20Water%20Management%20Plan%20Gregory%20Canyon%20Landfill%20Sept%2022%202008.pdf

Proposed post-construction BMPs for bridge runoff include:

1. Two media filtration cartridges (6-feet by 12-feet Curb Inlet StormFilter or equivalent).
2. Two structural pre-infiltration filter devices (Kristar SwaleGard Pre-Filter or equivalent).
3. Two energy dissipation devices.

4. Infiltration.

Public Notice:	September 17, 2009 – Regional Board website		
Application Fees:	Total Due:	$2816.00	
	Total Paid:	$640.000	(Check No. 8722)
		$2176.99	(Check No. 2804)
CIWQS:	Reg. Measure	371599	
	Place	227954	
	Party	18607	
	Party	19483	
	Person	68247	

ATTACHMENT 2
DISTRIBUTION LIST

Mr. Robert Smith
U.S. Army Corps of Engineers
San Diego Field Office
6010 Hidden Valley Road
Suite 105
Carlsbad, CA 92011

Ms. Marilyn Fluharty
California Department of Fish and Game
South Coast Region
Habitat Conservation Planning – North
4949 Viewridge Avenue
San Diego, CA 92123

Mr. Eric Raffini
Wetlands Regulatory Office
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105
R9-WTR8-Mailbox@epa.gov

Bill Magdych
URS Corporation
1615 Murray Canyon Road
Suite 1000
San Diego, CA 92108

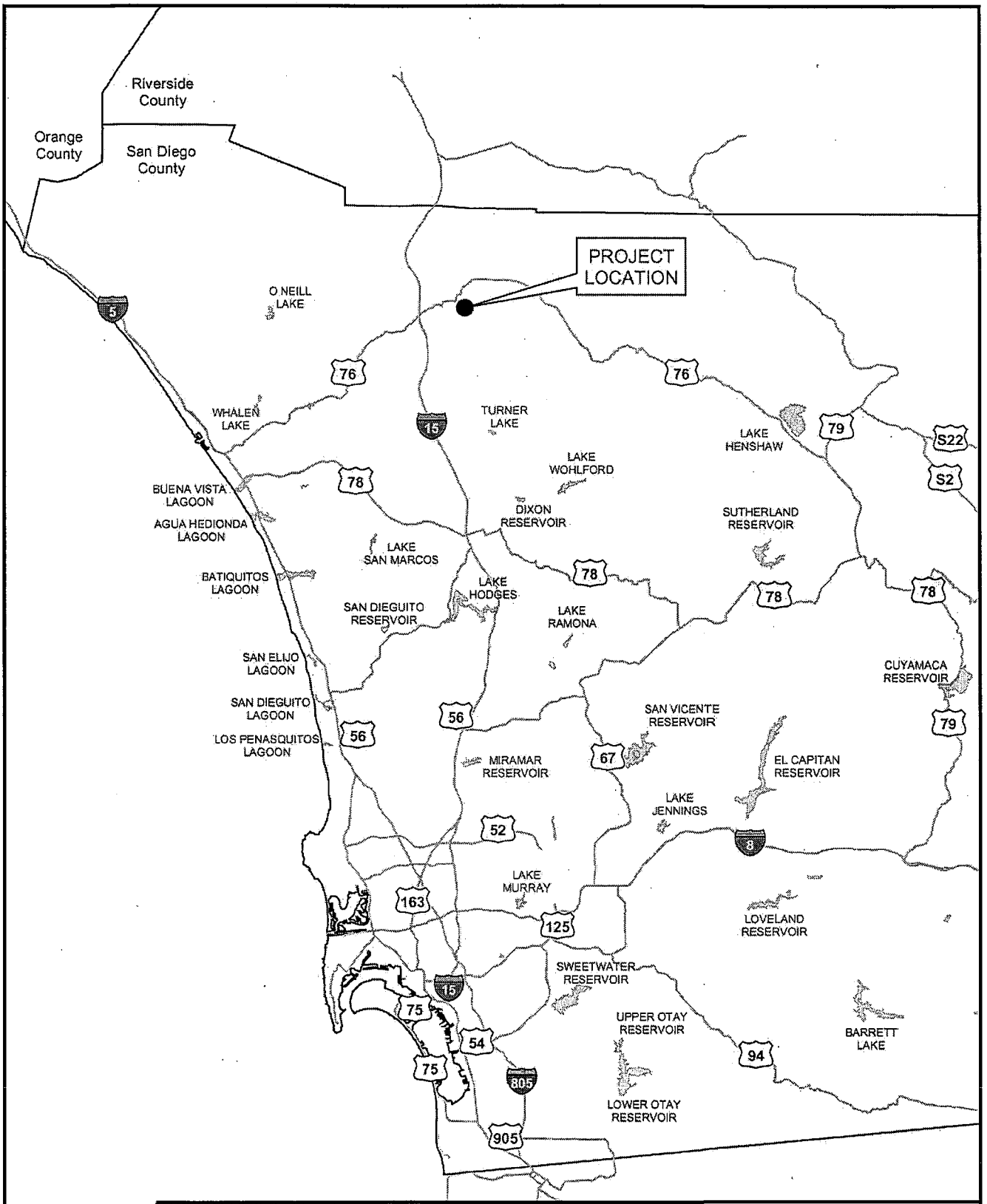
State Water Resources Control Board
Division of Water Quality
401 Water Quality Certification and Wetlands Unit
P.O. Box 100
Sacramento, CA 95812-0100
Stateboard401@waterboards.ca.gov

U.S. Department of the Interior
Fish and Wildlife Service
6010 Hidden Valley Road
Carlsbad, CA 92011

Lyris e-mail listserve of Gregory Canyon interested parties

ATTACHMENT 3

Location Map



SOURCES: SANDAG (Roads, Lakes, Rivers), CDFG (Counties Boundaries).

PROJECT LOCATION
GREGORY CANYON LTD. LLC

URS

4.25 0 4.25 8.5 miles

SCALE: 1" = 8.5 miles (1:538,560)

CHECKED BY: MS	DATE: 9-20-05	FIG. NO:
PM: BM	PROJ. NO: 27654025.00020	1

G:\gis\projects\1577\27654025\mxd\Fig1_Project_Location.mxd

ATTACHMENT 4

Site Maps

G:\gis\projects\157\27654025\mxd\Fig2_proj_boundary.mxd

SOURCES: LENSKA (2002 Aerial Photograph), HELIX (Project Boundary, 1999), Herzog (Bridge Design, 2004); Nolte (Bridge Grading, 2005).

PROJECT BOUNDARY
GREGORY CANYON LTD. LLC

URS

625 0 625 1250 Feet

SCALE: 1" = 1,250' (1:15,000)

CHECKED BY TM	DATE: 8-31-06	FIG. NO:
PM: BM	PROJ. NO: 27654025.00010	2

SOURCES: LENSKA (2002 Aerial photograph), Herzog (bridge design, 2004), URS (Waters of the U.S.), Nolte & Assoc. (bridge grading 2005)..

BRIDGE FOOTPRINT OVERLAIN ON WATERS OF THE U.S.

URS

100 0 100 200 Feet

SCALE: 1" = 200' (1:2400)

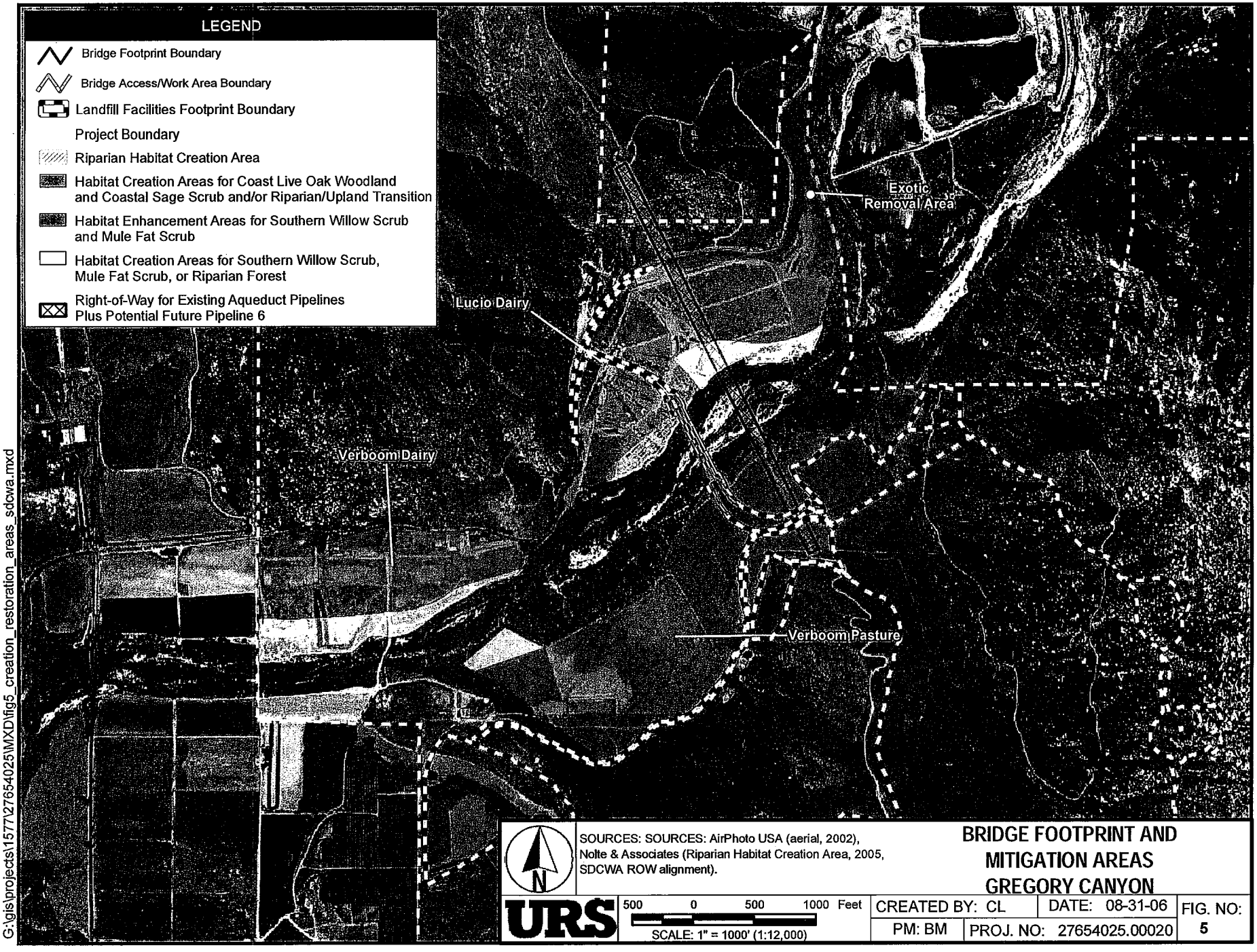
CHECKED BY: CL	DATE: 8-31-06	FIG. NO:
PM: BM	PROJ. NO: 27654025.00010	3

G:\gis\projects\1577\27654025\mxd\Fig3_bridge_wus.mxd


LEGEND
W Wetland/Waters of the U.S. Boundary
U Upland
GPS Waypoints April 8, 2004*
GPS Waypoints April 6, 2004*
*Locations are approximate
SOURCES:
AirphotoUSA (March 2002 Aerial).
JURISDICTIONAL DELINEATION OF THE
GREGORY CANYON LANDFILL SITE
GREGORY CANYON, LTD. LLC SITE
URS
250 0 250 500 Feet
1 inch = 500 feet
CHECKED BY: MS
DATE: 3-14-08
PM: WM
PROJ. NO: 27654025.00030
FIG. NO: 5
G:\gis\projects\1577\27654025\mxd

ATTACHMENT 5

MITIGATION MAPS



G:\gis\projects\1577\27654025\MXD\fig5_creation_restoration_areas_sdcwa.mxd

SOURCES: SOURCES: AirPhoto USA (aerial, 2002), Nolte & Associates (Riparian Habitat Creation Area, 2005, SDCWA ROW alignment).

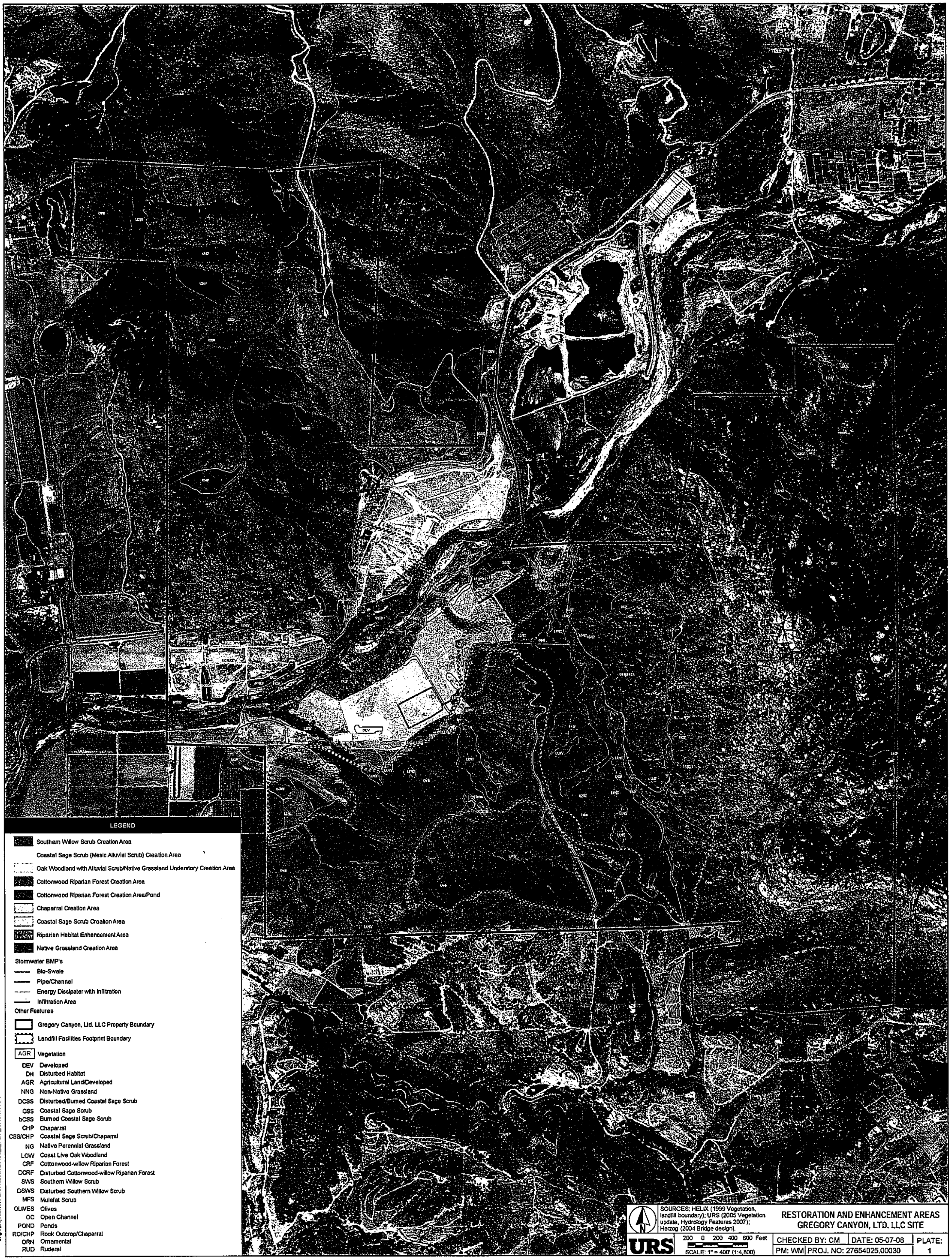
BRIDGE FOOTPRINT AND MITIGATION AREAS GREGORY CANYON

URS

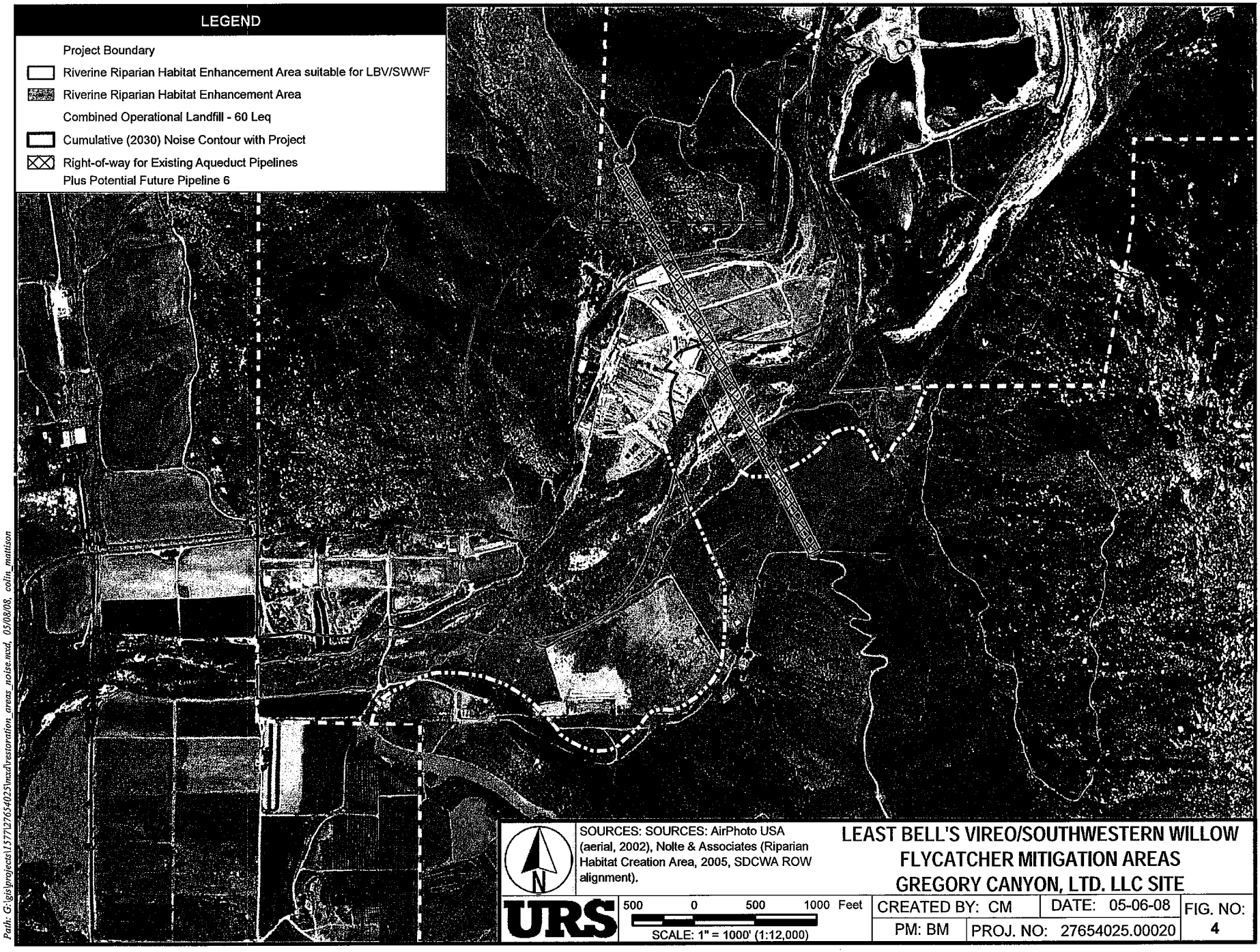
500 0 500 1000 Feet

SCALE: 1" = 1000' (1:12,000)

CREATED BY: CL	DATE: 08-31-06	FIG. NO:
PM: BM	PROJ. NO: 27654025.00020	5



G:\gis\projects\1577\27654025\mxd\Plate_2_water_resources.mxd


LEGEND
Project Boundary
Riverine Riparian Habitat Enhancement Area suitable for LBV/SWWF
Riverine Riparian Habitat Enhancement Area
Combined Operational Landfill - 60 Leq
Cumulative (2030) Noise Contour with Project
Right-of-way for Existing Aqueduct Pipelines
Plus Potential Future Pipeline 6
N
SOURCES: SOURCES: AirPhoto USA (aerial, 2002), Nolte & Associates (Riparian Habitat Creation Area, 2005, SDCWA ROW alignment).
LEAST BELL'S VIREO/SOUTHWESTERN WILLOW FLYCATCHER MITIGATION AREAS
GREGORY CANYON, LTD. LLC SITE
URS
500 0 500 1000 Feet
SCALE: 1" = 1000' (1:12,000)
CREATED BY: CM
DATE: 05-06-08
FIG. NO: 4
PM: BM
PROJ. NO: 27654025.00020
Path: G:\gis\projects\1577\27654025\mxd\restoration_areas_noise.mxd, 05/08/08, colin_mattison

ATTACHMENT 6

STREAM PHOTO DOCUMENTATION PROCEDURE

Standard Operating Procedure (SOP) 4.2.1.4

Stream Photo Documentation Procedure

(CARCD 2001, Written by TAC Visual Assessments work group)

Introduction:

Photographs provide a qualitative, and potentially semi-quantitative, record of conditions in a watershed or on a water body. Photographs can be used to document general conditions on a reach of a stream during a stream walk, pollution events or other impacts, assess resource conditions over time, or can be used to document temporal progress for restoration efforts or other projects designed to benefit water quality. Photographic technology is available to anyone and it does not require a large degree of training or expensive equipment. Photos can be used in reports, presentations, or uploaded onto a computer website or GIS program. This approach is useful in providing a visual portrait of water resources to those who may never have the opportunity to actually visit a monitoring site.

Equipment:

Use the same camera to the extent possible for each photo throughout the duration of the project. Either 35 mm color or digital color cameras are recommended, accompanied by a telephoto lens. If you must change cameras during the program, replace the original camera with a similar one comparable in terms of media (digital vs. 35 mm) and other focal length characteristics. A complete equipment list is suggested as follows:

Required:

- Camera and backup camera
- Folder with copies of previous photos (do not carry original photos in the field)
- Topographic and/or road map
- Aerial photos if available
- Compass
- Timepiece
- Extra film or digital disk capacity (whichever is applicable)
- Extra batteries for camera (if applicable)
- Photo-log data sheets or, alternatively, a bound notebook dedicated to the project
- Yellow photo sign form and black marker, or, alternatively, a small black board and chalk

Optional:

- GPS unit
- Stadia rod (for scale on landscape shots)
- Ruler (for scale on close up views of streams and vegetation)
- Steel fence posts for dedicating fixed photo points in the absence of available fixed landmarks

How to Access Aerial Photographs:

Aerial Photos can be obtained from the following federal agencies:

USGS Earth Science Information Center
507 National Center
12201 Sunrise Valley Drive
Reston, VA 22092
800-USA-MAPS

USDA Consolidated Farm Service Agencies
Aerial Photography Field Office
222 West 2300 South
P.O. Box 30010
Salt Lake City, UT 84103-0010
801-524-5856

Cartographic and Architectural Branch
National Archives and Records Administration
8601 Adelphi Road
College park, MD 20740-6001
301-713-7040

Roles and Duties of Team:

The team should be comprised of a minimum of two people, and preferably three people for restoration or other water quality improvement projects, as follows:

1. Primary Photographer
2. Subject, target for centering the photo and providing scale
3. Person responsible for determining geographic position and holding the photo sign forms or blackboard.

One of these people is also responsible for taking field notes to describe and record photos and photo points.

Safety Concerns:

Persons involved in photo monitoring should **ALWAYS** put safety first. For safety reasons, always have at least two 2 volunteers for the survey. Make sure that the area(s) you are surveying either are accessible to the public or that you have obtained permission from the landowner prior to the survey.

Some safety concerns that may be encountered during the survey include, but are not limited to:

- Inclement weather
- Flood conditions, fast flowing water, or very cold water

- Poisonous plants (e.g.: poison oak)
- Dangerous insects and animals (e.g.: bees, rattlesnakes, range animals such as cattle, etc.)
- Harmful or hazardous trash (e.g.: broken glass, hypodermic needles, human feces)

We recommend that the volunteer coordinator or leader discuss the potential hazards with all volunteers prior to any fieldwork.

General Instructions:

From the inception of any photo documentation project until it is completed, always take each photo from the same position (photo point), and at the same bearing and vertical angle at that photo point. Photo point positions should be thoroughly documented, including photographs taken of the photo point. Refer to copies of previous photos when arriving at the photo point. Try to maintain a level (horizontal) camera view unless the terrain is sloped. (If the photo can not be horizontal due to the slope, then record the angle for that photo.) When photo points are first being selected, consider the type of project (meadow or stream restoration, vegetation management for fire control, ambient or event monitoring as part of a stream walk, etc.) and refer to the guidance listed on *Suggestions for Photo Points by Type of Project.*

When taking photographs, try to include landscape features that are unlikely to change over several years (buildings, other structures, and landscape features such as peaks, rock outcrops, large trees, etc.) so that repeat photos will be easy to position. Lighting is, of course, a key ingredient so give consideration to the angle of light, cloud cover, background, shadows, and contrasts. Close view photographs taken from the north (i.e., facing south) will minimize shadows. Medium and long view photos are best shot with the sun at the photographer's back. Some artistic expression is encouraged as some photos may be used on websites and in slide shows (early morning and late evening shots may be useful for this purpose). Seasonal changes can be used to advantage as foliage, stream flow, cloud cover, and site access fluctuate. It is often important to include a ruler, stadia rod, person, farm animal, or automobile in photos to convey the scale of the image. Of particular concern is the angle from which the photo is taken. Oftentimes an overhead or elevated shot from a bridge, cliff, peak, tree, etc. will be instrumental in conveying the full dimensions of the project. Of most importance overall, however, is being aware of the goal(s) of the project and capturing images that clearly demonstrate progress towards achieving those goal(s). Again, reference to *Suggestions for Photo Points by Type of Project* may be helpful.

If possible, try to include a black board or yellow photo sign in the view, marked at a minimum with the location, subject, time and date of the photograph. A blank photo sign form is included in this document.

Recording Information:

Use a systematic method of recording information about each project, photo point, and photo. The following information should be entered on the photo-log forms (blank form included in this document) or in a dedicated notebook:

- Project or group name, and contract number (if applicable, e.g., for funded restoration projects)
- General location (stream, beach, city, etc.), and short narrative description of project's habitat type, goals, etc.
- Photographer and other team members
- Photo number
- Date
- Time (for each photograph)
- Photo point information, including:
    - Name or other unique identifier (abbreviated name and/or ID number)
    - Narrative description of location including proximity to and direction from notable landscape features like roads, fence lines, creeks, rock outcrops, large trees, buildings, previous photo points, etc. – sufficient for future photographers who have never visited the project to locate the photo point
    - Latitude, longitude, and altitude from map or GPS unit
- Magnetic compass bearing from the photo point to the subject
- Specific information about the subject of the photo
- Optional additional information: a true compass bearing (corrected for declination) from photo point to subject, time of sunrise and sunset (check newspaper or almanac), and cloud cover.

For ambient monitoring, the stream and shore walk form should be attached or referenced in the photo-log.

When monitoring the implementation of restoration, fuel reduction, or Best Management Practices (BMP) projects, include or attach to the photo-log a narrative description of observable progress in achieving the goals of the project. Provide supplementary information along with the photo, such as noticeable changes in habitat, wildlife, and water quality and quantity.

Archive all photos, along with the associated photo-log information, in a protected environment.

The Photo Point: Establishing Position of Photographer:

1. Have available a variety of methods for establishing position: maps, aerial photos, GPS, permanent markers and landmarks, etc. If the primary method fails (e.g., a GPS or lost marker post) then have an alternate method (map, aerial photo, copy of an original photograph of the photo-point, etc).

2. Select an existing structure or landmark (mailbox, telephone pole, benchmark, large rock, etc.), identify its latitude and longitude, and choose (and record for future use) the permanent position of the photographer relative to that landmark. Alternatively, choose the procedure described in *Monitoring California's Annual Rangeland Vegetation* (UC/DANR Leaflet 21486, Dec. 1990). This procedure involves placing a permanently marked steel fence post to establish the position of the photographer.

3. For restoration, fuel reduction, and BMP projects, photograph the photo-points and carry copies of those photographs on subsequent field visits.

Determining the Compass Bearing:

1. Select and record the permanent magnetic bearing of the photo center view. You can also record the true compass bearing (corrected for declination) but do not substitute this for the magnetic bearing. Include a prominent landmark in a set position within the view. If possible, have an assistant stand at a fixed distance from both the photographer and the center of the view, holding a stadia rod if available, within the view of the camera; preferably position the stadia rod on one established, consistent side of the view for each photo (right or left side).
2. Alternatively, use the procedure described in *Monitoring California's Annual Rangeland Vegetation* (UC/DANR Leaflet 21486, Dec. 1990). This procedure involves placing a permanently marked steel fence post to establish the position of the focal point (photo center).
3. When performing ambient or event photo monitoring, and when a compass is not available, then refer to a map and record the approximate bearing as north, south, east or west.

Suggestions for Photo Points by Type of Project:

Ambient or Event Monitoring, Including Photography Associated with Narrative Visual Assessments:

1. When first beginning an ambient monitoring program take representative long and/or medium view photos of stream reaches and segments of shoreline being monitored. Show the positions of these photos on a map, preferably on the stream/shore walk form. Subjects to be photographed include a representative view of the stream or shore condition at the beginning and ending positions of the segment being monitored, storm drain outfalls, confluence of tributaries, structures (e.g., bridges, dams, pipelines, etc.).

2. If possible, take a close view photograph of the substrate (streambed), algae, or submerged aquatic vegetation.

3. Time series: Photographs of these subjects at the same photo points should be repeated annually during the same season or month if possible.

4. Event monitoring refers to any unusual or sporadic conditions encountered during a stream or shore walk, such as trash dumps, turbidity events, oil spills, etc. Photograph and record information on your photo-log and on your Stream and Shore Walk Visual Assessment form. Report pollution events to the Regional Board. Report trash dumps to local authorities.

All Restoration and Fuel Reduction Projects – Time Series:

Take photos immediately before and after construction, planting, or vegetation removal. Long term monitoring should allow for at least annual photography for a minimum of three years after the project, and thereafter at 5 years and ten years.

Meadow Restoration:

1. Aerial view (satellite or airplane photography) if available.

2. In the absence of an aerial view, a landscape, long view showing an overlapping sequence of photos illustrating a long reach of stream and meadow (satellite photos, or hill close by, fly-over, etc.)

3. Long view up or down the longitudinal dimension of the creek showing riparian vegetation growth bounded on each side by grasses, sedges, or whatever that is lower in height

4. Long view of conversion of sage and other upland species back to meadow vegetation

5. Long view and medium view of streambed changes (straightened back to meandering, sediment back to gravel, etc.)

6. Medium and close views of structures, plantings, etc. intended to induce these changes

Stream Restoration/stabilization:

1. Aerial view (satellite or airplane photography) if available.

2. In the absence of an aerial view, a landscape, long-view showing all or representative sections of the project (bluff, bridge, etc.)

3. Long view up or down the stream (from stream level) showing changes in the stream bank, vegetation, etc.

4. Long view and medium view of streambed changes (thalweg, gravel, meanders, etc.)

5. Medium and close views of structures, plantings, etc. intended to induce these changes.

6. Optional: Use a tape set perpendicular across the stream channel at fixed points and include this tape in your photos described in 3 and 4 above. For specific procedures refer to Harrelson, Cheryl C., C.L. Rawlins, and John P. Potyondy, *Stream Channel Reference Sites: An Illustrated Guide to Field Techniques*, United States Department of Agriculture, Forest Service, Rocky Mountain Forest and Range Experiment Station, General Technical Report RM-245.

Vegetation Management for Fire Prevention ("fuel reduction"):

1. Aerial view (satellite or airplane photography) if available.

2. In the absence of an aerial view, a landscape, long view showing all or representative sections of the project (bluff, bridge, etc.)

3. Long view (wide angle if possible) showing the project area or areas. Preferably these long views should be from an elevated vantage point.

4. Medium view photos showing examples of vegetation changes, and plantings if included in the project. It is recommended that a person (preferably holding a stadia rod) be included in the view for scale

5. To the extent possible include medium and long view photos that include adjacent stream channels.

Stream Sediment Load or Erosion Monitoring:

1. Long views from bridge or other elevated position.

2. Medium views of bars and banks, with a person (preferably holding a stadia rod) in view for scale.

3. Close views of streambed with ruler or other common object in the view for scale.

4. Time series: Photograph during the dry season (low flow) once per year or after a significant flood event when streambed is visible. The flood events may be episodic in the south and seasonal in the north.

5. Optional: Use a tape set perpendicular across the stream channel at fixed points and include this tape in your photos described in 1 and 2 above. For specific procedures refer to Harrelson, Cheryl C., C.L. Rawlins, and John P. Potyondy, *Stream Channel Reference Sites: An Illustrated Guide to Field Techniques*, United States Department of Agriculture, Forest Service, Rocky Mountain Forest and Range Experiment Station, General Technical Report RM-245.

PHOTO- LOG FORM

Project:
Location:
Date:
Photographer:
Team members:

Photo #	Time	Photo Point ID	Photo Pt. Description & Location	Bearing to Subject	Subject Description

General Notes or Comments (weather, cloud cover, time of sunrise and sunset, other pertinent information):

PHOTO SIGN FORM: Print this form on yellow paper. Complete the following information for each photograph. Include in the photographic view so that it will be legible in the finished photo.

Location:

Subject Description:

Date:

Time:

ATTACHMENT 7

RESPONSE TO COMMENTS

ATTACHMENT 7

RESPONSE TO COMMENTS

I. SUMMARY OF COMMENTS RECEIVED

As of November 2, 2009 the Regional Board has received approximately 1694 comments from the public; all of which are in opposition to the proposed landfill or landfill with bridge.

A. Form Letter Comments.

Of the 1694 comments received, all but eleven consisted of the same form letter, e-mailed by multiple individuals. These emails were generated from the NRDC website (https://secure.nrdconline.org/site/Advocacy?cmd=display&page=UserAction&id=1621). Each email has different senders and shows their respective residential addresses from all over California, the United States, and the world. The form email is titled, "Protect the San Luis Rey River and San Diego County's drinking water". The Regional Board has contacted the NRDC and requested a list of all the e-mail signatories from their database. The emails are stored on the Regional Board email server. If the public wishes to view the individual emails in person, an appointment can be arranged by calling 858-467-2952.

The form letter did not address specific surface water quality issues from the proposed bridge project or any issues with the proposed bridge. Below is a summary of the general comments received in the form letter.

1. Authors request denial of the water quality certification for the proposed landfill project.
2. Authors request a public meeting regarding this issue.
3. Authors fear leachate from the proposed landfill will contaminate ground water.
4. Authors state that regional water supplies are scarce and will become scarcer due to climate change and that drinking water sources must be protected at all costs.
5. Authors state the proposed landfill will threaten Native American lands.

B Non -Form Letter Comments.

The Regional Board received eleven additional comment letters, not generated by the NRDC website. Eight of the comment letters were received by mail, and one by e-mail. Individual comment letters were received from the following individuals:

1. Ms. Pam Slater-Price, Vice Chairwoman, Supervisor, Third District, San Diego County Board of Supervisors (dated October 2, 2009).
2. Mr. Edward Kimura, Chair, Water Committee, Sierra Club, San Diego Chapter (e-mailed and dated October 6, 2009).
3. Mr. Ken Weinberg, Director of Water Resources, San Diego County Water Authority (dated October 7, 2009).
4. Mr. George Courser, Director and Ms. Bonnie Gendron, Coordinator, Back Country Coalition (dated October 7, 2009).
5. San Luis Rey Band of Luiseno Mission Indians, by the California Indian Legal Services (Mark A. Vezzola, Staff Attorney) (dated October 8, 2009).
6. Ms. Larriann Musick, Tribal Chairperson, La Jolla Band of Luiseno Indians (dated October 8, 2009).
7. Pala Band of Mission Indians, by the law firm of Procopio, Cory, Hargreaves, and Savitch (attorney Walter E. Rusnick) (dated October 9, 2009).
8. Ms. Angela Veltrano, Chairman, Rincon Culture Committee, Rincon Tribe (dated October 9, 2009).
9. Ms. Mona M. Sespe, Pala Tribal Member (dated October 14, 2009).
10. Pala Band of Mission Indians, by the law firm of Procopio, Cory, Hargreaves, and Savitch (attorney Walter E. Rusnick) (dated October 23, 2009).
11. Ms. Nadine L. Scott, Attorney at Law, Friends of Loma Alta Creek (email received October 31, 2009).

II. REGIONAL BOARD RESPONSES

The following table contains a summary of the comments received in order of frequency, with the most common comments first, followed by the Regional Board's response:

Comment #	Generalized Comment:	Comment submitted by:	Response:
1	The location of the proposed landfill is not appropriate next to the San Luis Rey River.	All commenters.	This certification is for the Gregory Canyon Bridge, and therefore does not evaluate the suitability of the proposed landfill location. In evaluating this certification, staff has considered the location of the bridge impacts, with regards to possible alternative sites for the bridge in that area, and finds it to be in a location that sufficiently minimizes impacts to Waters of the United States.
2	The proposed landfill can cause degraded surface and/or ground water quality from leaking leachate.	Supervisor Slater-Price, San Luis Rey Band, La Jolla Band, Ms. Veltrano, Ms. Sespe., Pala Band.	This certification is for the Gregory Canyon Bridge, and therefore does not evaluate the likelihood of leachate releases from the proposed landfill. Comments on the landfill will be evaluated and responded to by the Regional Board prior to issuance of Waste Discharge Requirements for the proposed landfill.
3	Issuance of the certification infringes on rights of Native Americans, and impacts cultural resources being desecrated and/or ignored from the proposed landfill over sacred areas.	Supervisor Slater-Price, San Luis Rey Band, La Jolla Band, Ms. Veltrano, Ms. Sespe, Pala Band.	According to the application, the Gregory Canyon bridge site does not impact any known cultural resources. Further, the Regional Board as a responsible agency under CEQA is only required to consider the impacts to water quality, not impacts caused by or operation the proposed

Comment #	Generalized Comment:	Comment submitted by:	Response:
			landfill.
4	The application for Water Quality Certification should be denied because (a) bridge permitting should not be separated from landfill permitting, (b) water quality issues, and (c) concerns about Native American rights and their sacred places.	Supervisor Slater-Price, San Luis Rey Band, La Jolla Band, Ms. Sespe, Back Country Coalition.	Comment noted. At the November 18, 2009 hearing, the Regional Board will have the option to direct the Executive Officer to amend, certify, deny or postpone this certification, as drafted, based on evidence received.
5	Issuance of this certification without concurrent review and issuance of the Waste Discharge Requirements for the proposed Gregory Canyon Landfill would be "piece-mealing" of permits for the proposed landfill project that originally contained a bridge component.	Sierra Club, San Diego County Water Authority, Back Country Coalition, San Luis Rey Band, Ms. Scott.	The applicant, Gregory Canyon, Ltd., LLC requested that the proposed bridge permitting be separated from the proposed landfill permitting. The issue of "piece-mealing" relates to CEQA. The County of San Diego, the lead agency under CEQA, certified a final Environmental Impact Report (EIR) for the entire project that includes an evaluation of the environmental impacts of the landfill, the bridge, and other issues. The Regional Board, as a responsible agency under CEQA, is not required to act on all applications it receives in one action; it can consider the Waste Discharge Requirements and CWA 401 Water Quality Certification independently, so long as the CEQA

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			document it relies on is suitable for its purposes. At the November 18, 2009 hearing, the Regional Board will have the option to amend, certify, deny or postpone this certification, as drafted, based on evidence received.
6	The Regional Board cannot take an action on the application for Water Quality Certification for the proposed bridge because the CEQA process is not complete due to water supply problems for the operation of the proposed landfill and pending an appeal in the Fourth District Court of Appeals.	Back Country Coalition, Pala Band, San Diego County Water Authority, Ms. Veltrano	Regional Board understands the CEQA review process to be complete for the Regional Board's action; but subject to appeal. As a Responsible Agency, not Lead Agency, under CEQA the Regional Board is only required to consider the CEQA document with respect to the portions of the project it is approving and only those impacts within its jurisdiction. With respect to the proposed bridge, the Regional Board need only consider the impacts to water quality, not impacts caused by or operation of the proposed landfill. Further, as a responsible agency, the Regional Board is required to presume that the CEQA document is valid for its purposes unless the CEQA document is

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			finally adjudged in a legal proceeding not to comply with CEQA or a subsequent EIR is made necessary by Section 15162 of the CEQA guidelines. See Title 14 CCR Section 15231. In this case, the court concluded that the revised EIR complied with CEQA, and, therefore, the Regional Board must presume that the EIR is valid.
7	The proposed landfill would negatively affect flora and fauna.	Supervisor Slater-Price, San Luis Rey Band, La Jolla Band, Pala Band.	The Water Quality Certification for the proposed bridge authorizes 0.002-acre of permanent impacts to unvegetated waters. The Regional Board has conditioned the certification to include requirements that will mitigate for any proposed impacts to flora and fauna from the bridge project.
8	We request that the Regional Board not issue a separate Water Quality Certification for the proposed bridge because the existing draft Waste Discharge Requirements contains a Water Quality Certification section for the proposed bridge.	Back Country Coalition, Supervisor Slater-Price.	At the time that draft Waste Discharge Requirements were made public, it was the Regional Board's intent to issue the 401 certification, and condition impacts to non-federal waters of the State, with the issuance of the WDRs. Since that time, the Regional Board has determined that issuance of a 401 certification for impacts to Federal Waters can occur prior to the issuance of all other requirements. Draft Waste

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			Discharge Requirements for the proposed landfill project will need to be revised accordingly, but will still contain compliance conditions to address impacts to surface waters of the State from the Gregory Canyon landfill project area. Pursuant to 33 CFR, Section 325.29.IV.b.1, the Regional Board is required to act on applications for water quality certification within 60 days of receipt of the application unless an exception is granted by the Army Corps of Engineers. That period ends on December 12, 2009. Note, however, that the Regional Board may still issue waste discharge requirements for the activity even after the time to act on a 401 certification application has expired. The proposed water quality certification includes reopeners for changed circumstances, including changes in the jurisdictional determination, the proposed action, or applicable water quality standards. At the November 18, 2009 hearing, the Regional Board will have the option to

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			direct the Executive Officer to amend, certify, deny or postpone this certification, as drafted, based on evidence received.
9	Request that the comment period be extended.	Supervisor Slater-Price, San Luis Rey Band.	The public comment period for a Water Quality Certification is a minimum of 21 days. The Executive Officer or Regional Board can take action on that certification at any point after 21 days. (33 USC Section 1341; Sections 179, 183, 1059, and 13160, California Water Code.) On November 9, 2009 the close of written comments, the public will have been provided 53 days to submit comments on the proposed project. Additionally, oral comments may be received at the November 18, 2009 Regional Board Meeting for action on this Water Quality Certification.
10	The siting regulations for a new landfill were not being followed per CCR Title 27, Division 2, Subdivision 1, Chapter 3, Subchapter 2, Article 3.	La Jolla Band	This certification is for the Gregory Canyon Bridge, and therefore does not evaluate the suitability of the proposed landfill location. Comments on the siting regulations will be evaluated and responded to by the

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			Regional Board prior to issuance of Waste Discharge Requirements for the proposed landfill.
11	The integrity of the San Diego County Water Authority aqueduct pipelines under the San Luis Rey River could be jeopardized due to scour of the riverbed from alteration of the river from the proposed bridge and that a scour study should be performed.	SDCWA	On October 29, 2009 the Regional Board requested additional hydrology analyses from the applicant to evaluate this concern. Staff will evaluate the information provided prior to issuance of this certification.
12	There is no valid Clean Water Act section 404 application for proposed landfill and bridge because the Nationwide Permits under section 404 had expired in 2007 and the application was submitted in 2005.	Pala Band	Regional Board staff discussed this topic with the Army Corps of Engineers (ACOE). The ACOE stated that the application form received in 2005 is still valid. The proposed water quality certification includes reopeners for changed circumstances.
13	There is no valid Jurisdictional Determination (of Waters of the U.S.) under Clean Water Act section 404 since it had reached its 5-	Pala Band	According to the ACOE, the Jurisdictional Determination expired on October 28, 2009. The ACOE has conducted a new Jurisdictional Determination on (dates), and will

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	year expiration date on October 6, 2009. Given that, the Regional Board cannot take an action on a pending application for Water Quality Certification section 401 - as the two permits are statutorily tied together.		convey the results of this JD on November 15. Regional Board has asked ACOE how they should proceed in light of the possible outcomes, and is awaiting response.
14	More information is needed for the proposed use of the low-flow crossing downstream of the proposed bridge. Additional information needed includes how will the damaged low-flow crossing be repaired, permitted, or how endangered species and their habitats will be protected during repair of and use of the low-flow crossing.	Pala Band	Engineered drawings and additional details on the low-flow crossing were requested on October 19, 2009. Staff will evaluate the information provided prior to issuance of this certification.
15	The section 404 Permit application contains erroneous information.	Pala Band	The Regional Board relies on the ACOE review of the 404 application to determine whether any of the information in the application is erroneous.
16	The Application does not provide sufficient information	Pala Band	The Regional Board can continue to ask for more information to determine project

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	for the issuance of a water quality certification.		impacts after the certification is deemed statutorily complete; and have done so in this case. The certification will not be issued until the Regional Board staff has received sufficient information to determine whether the proposed project will negatively impact water quality.
17	Per 33 U.S.C., CCR §3831, and case law, the Water Quality Certification must consider the impacts of the activity allowed, not simply the fill activity.	Pala Band	"Water quality certification" means "a certification that any discharge or discharges to waters of the United States, resulting from an activity that requires a federal license or permit will comply with water quality standards." The application for water quality certification is related to the bridge project and impacts to jurisdictional waters. The proposed water quality certification imposes conditions to address all water quality impacts associated with the bridge project. The water quality impacts associated with the landfill will be considered when the Regional Board considers adoption of waste discharge requirements.
18	The Regional Board failed to public notice the September 28, 2009 application.	Pala Band	The Regional Board considers the application dated September 28, 2009 as supplemental to the original application received on September 17, 2009, and therefore has continued to

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			notice accordingly.
19	The new application is internally inconsistent and still does not provide sufficient information for the issuance of a water quality certification.	Pala Band	With the exception of a scour study for the aqueduct pipelines, information regarding the repair, use, and abandonment of the low-flowing crossing, and the request for a bridge design that captures air-borne trash with fence, there is sufficient information in the application for the Regional Board to take an action on the application for water quality certification.